

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MASSACHUSETTS

LIBERTY MUTUAL INSURANCE	)	
COMPANY AND SUBSIDIARIES,	)	
	)	
Plaintiff,	)	
	)	
v.	)	No. 1:05-cv-11048-RCL
	)	
UNITED STATES OF AMERICA,	)	
	)	
Defendant.	)	

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LIBERTY MUTUAL FIRE INSURANCE	)	
COMPANY AND SUBSIDIARIES,	)	
	)	
Plaintiff,	)	
	)	
v.	)	No. 1:05-cv-11049-RCL
	)	
UNITED STATES OF AMERICA,	)	
	)	
Defendant.	)	

PLAINTIFFS' MOTION TO STRIKE DEFENDANT'S BRIEF,  
TO LIMIT ANY PERMITTED REPLACEMENT BRIEF,  
TO ALLOW PLAINTIFFS ADDITIONAL PAGES IN REPLY, TO ALLOW  
PLAINTIFFS ADDITIONAL TIME TO REPLY, AND TO  
RECONFIRM THE COURT'S JANUARY 12, 2006 ORDER

**Request for Oral Argument**

Plaintiffs Liberty Mutual Insurance Company and Liberty Fire Insurance Company  
("Liberty Companies") respectfully request a hearing regarding this motion. Liberty Companies

further request that the hearing take place at the same time as the hearing on their pending Motion to Compel Production of Documents, filed October 27, 2006.

Pursuant to Rule 7 of the Federal Rules of Civil Procedure and Rule 7.1 of the Local Rules of the United States District Court for the District of Massachusetts, Liberty Companies hereby move that the Court:

1. strike the memorandum defendant filed in support of its motion for summary judgment and opposition that defendant filed on the evening of October 30, 2006 on the basis that the memorandum exceeded the Court's limitation by 10 pages;
2. limit any permitted replacement brief to the positions and defenses contained in the excess-length brief;
3. allow Liberty Companies to file a reply brief of 23 pages (10 more than the limit originally ordered by the Court) to address the defenses and positions that defendant did not disclose until after Liberty Companies filed their Motion for Summary Judgment;
4. allow Liberty Companies an extension of time to file their reply brief to a date 30 days after the later of (a) the date of the fulfillment of the Court's order regarding Liberty Companies' pending Motion to Compel Production of Documents, filed October 27, 2006 or (b) the date defendant files any replacement brief permitted by the Court; and
5. reconfirm the Court's previous Order of January 12, 2006 that defendant is not permitted to file any reply brief.

The request for an extension of time for Plaintiffs to respond has been partially agreed to by counsel for defendant.

The grounds for this motion are set forth in the accompanying Memorandum in Support of Plaintiffs' Motion to Strike Defendant's Brief, to Limit Any Permitted Replacement Brief, to Allow Plaintiffs Additional Pages in Reply, to Allow Plaintiffs Additional Time to Reply, and to Reconfirm the Court's January 12, 2006 Order.

Respectfully submitted:

Date: November 1, 2006

/s/ Peter H. Winslow  
PETER H. WINSLOW  
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Admitted pro hac vice

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that the foregoing *Plaintiffs' Motion to Strike Defendant's Brief, to Limit Any Permitted Replacement Brief, to Allow Plaintiffs Additional Pages in Reply, to Allow Plaintiffs Additional Time to Reply, and to Reconfirm the Court's January 12, 2006 Order*, together with the accompanying *Memorandum in Support of Plaintiffs' Motion to Strike Defendant's Brief, to Limit Any Permitted Replacement Brief, to Allow Plaintiffs Additional Pages in Reply, to Allow Plaintiffs Additional Time to Reply, and to Reconfirm the Court's January 12, 2006 Order*, the *Declaration of Peter H. Winslow*, and proposed *Order* filed through the ECF system will be sent electronically to the registered participants as identified on the Notice of Electronic Filing (NEF) and paper copies will be sent to the following address via overnight mail on this 1st day of November, 2006:

Karen Wozniak  
Trial Attorney, Tax Division  
U.S. Department of Justice  
555 Fourth Street, N.W.  
Room 7816  
Washington, D.C. 20044

/s/ Peter H. Winslow  
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